

SALES AND USE TAX REVIEW COMMISSION

RECOMMENDATION PURSUANT TO P.L. 1999, C. 416

BILL NUMBER: S-2271

**DATE OF
INTRODUCTION:** 3/29/01

SPONSOR: Senator Cardinale

**DATE OF
RECOMMENDATION:** See
A-3161

IDENTICAL BILL: A-3161

COMMITTEE: Senate Commerce

DESCRIPTION:

This bill provides a sales and use tax exemption for credit unions that are chartered under the laws of the State of New Jersey.

ANALYSIS:

The bill is an attempt to treat state chartered credit unions in the same manner as federally chartered credit unions, which enjoy an exemption from state sales tax pursuant to federal law. However, state credit unions generally compete with for-profit financial institutions, such as banks and leasing companies, not with federal credit unions. There is no compelling reason to legislate to achieve sales tax parity between non-competitive banking organizations. In addition, as a matter of general policy, the New Jersey Sales and Use Tax Act anticipates the payment of sales or use tax by businesses on certain equipment, supplies or taxable services. Where business property exemptions exist, they are usually for major capital expenditures; e.g. aircraft purchased by an air carrier, ships used in interstate commerce, capital improvements to realty.

A special problem arises in the area of motor vehicle leasing. Customers who obtain a lease through a federal credit union are exempt from any sales tax expense due to the federal exemption from state tax, while those who lease from any other type of organization will incur a sales tax expense. The lessor is liable for the tax, which is passed on to the lessee. This bill would add to the competitive disadvantage that currently exists due to the federal exemption. New Jersey leasing companies should not be treated differently under New Jersey law.

Finally, the proposed exemption is applicable only to credit unions organized under the laws of New Jersey. This may discriminate against out-of-state credit unions and may raise federal constitutional concerns in administration and enforcement.

RECOMMENDATION:

The identical bill, A-3161, was not recommended for enactment on 4/2/01.

NC:sp